IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

R.S.A.No.3349 of 2003

Date of Decision:20.2.2007.

Ajit Singh and others

....Appellants.

Versus

Punjab state and others

...Respondents.

CORAM : Hon'ble Mr. Justice Hemant Gupta.

Present:- Mr.P.K.Gupta.Advocate
for the appellants.

Mr.R.K.Sharma,Advocate,
for the respondents.

HEMANT GUPTA, J.(ORAL)

The plaintiffs are in second appeal aggrieved against the judgment and decree passed by the Courts below whereby the suit for permanent injunction on the basis of possession of shop in dispute was dismissed.

It has been found by the Courts below that the land comprising of Khasra No.247 measuring 1 kanal and 14 marlas, wherein shops have been constructed, has been acquired and award dated 24.6.1981 was announced by the Land Acquisition Collector. Notices were issued and served upon the persons effected including the owner and occupier. Thus, it was found that the appellants cannot dispute the acquisition proceedings after 14 years of the award. It has been further found that the defendants have taken possession of the land vide report Ex-D2 except 4 marlas of land

where shops were constructed. It has also been found that earlier Bachan Singh, the real brother of plaintiff, filed a suit which was dismissed. Thus, it was found that in terms of Section 16 of the Land Acquisition Act,1894 the state has become owner free from all encumbrances of the acquired property and the possession of the appellants over the land measuring 4 marlas is unauthorized possession.

Learned counsel for the appellants has vehemently argued that even an unauthorized occupant is entitled to be evicted in accordance with law and therefore, the plaintiffs are entitled to decree for permanent injunction. However, the said principle is not applicable in respect of the land which has been acquired by the State Government and in respect of the compensation has been paid. In pursuance of the acquisition proceedings, the State Government is in fact acting in accordance with law when it takes possession of the acquired land.

Therefore, I do not find any illegality or irregularity in the findings recorded which may give rise to substantial question of law for consideration in this second appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

20.2.2007.
Reema